

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIVEN D. BUNDY, et al.,

Defendants.

Case No. 2:16-cr-00046-GMN-PAL

ORDER

(Mot to Unseal – ECF No. 1464)

Before the court is the United States’ Sealed Motion to Unseal Orders 1393 and 1394 (ECF No. 1464). In a Sealed Order (ECF No. 1257) the court initially granted in part and denied in part Payne’s ex parte applications for issuance of subpoenas duces tecum (ECF No. 1192) directed to the BLM, NPS, and other entities without prejudice for reasons explained in the sealed order. Payne revised his request and refiled the Sealed Motion for subpoenas duces tecum (ECF No. 1292), correcting the deficiencies outlined in the order. The court granted Payne’s revised requests in an order (ECF Nos. 1393), and directed issuance of the requested subpoenas duces tecum (ECF No.1394).

The order (ECF No. 1393) granting Payne’s revised requests was sealed to prevent premature disclosure of Payne’s subpoenas. It was the court’s intention that Payne’s ex parte applications (ECF Nos. 1192, 1292) remain sealed because they contained counsel’s defense strategy in seeking the documents requested in the subpoenas. Payne’s ex parte applications acknowledged that the court would make the documents produced pursuant to subpoenas duces tecum available to counsel for all parties once received. The court also intended that the order (ECF No. 1257) granting in part and denying in part the initial requests remain sealed because the order discussed the reasons counsel for Payne stated the documents were needed in Payne’s defense. The sealed order granting the revised requests (ECF No 1393) did not articulate the

1 reasons Payne requested, and the court granted, the requests for subpoenas and merely found that  
2 Payne had met the applicable legal standard.

3 The United States now asks that the order and subpoenas be unsealed so that the United  
4 States may respond to the subpoenas duces tecum directed to the BLM and NPS. The court's order  
5 directed that the subpoenas and a copy of the order granting issuance of the subpoenas be delivered  
6 to the USMS for service, and that the Custodians of Records for the agencies on whom they were  
7 served respond by February 13, 2017 by producing responsive documents to the Clerk of Court.  
8 The court allowed the subpoenas to remain sealed so as not to prematurely disclose Payne's request  
9 for documents. However, as indicated, Payne's counsel acknowledged in the application that the  
10 court would make responsive documents produced pursuant to subpoenas available for inspection  
11 and copying to all parties once received by the Clerk of Court. As The United States intends to  
12 respond to the subpoenas issued to two of its agencies good cause exists to unseal the order and  
13 subpoenas.

14 The United States' motion to unseal (ECF No 1464) was filed under seal because it referred  
15 to sealed documents. Because the court is granting the request there is no reason for the motion to  
16 remain sealed.

17 Having reviewed and considered the matter,

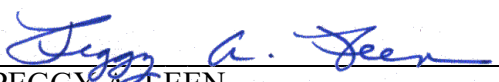
18 **IT IS ORDERED;**

19 1. The United States' Motion to Unseal Orders 1393 and 1394 (ECF No. 1464) is  
20 **GRANTED.**

21 2. The Clerk of Court shall unseal ECF No 1393 and 1394.

22 3. The Clerk of Court shall unseal ECF No 1464.

23 DATED this 10th day of February, 2017.

24  
25   
26 PEGGY A. LEEN  
27 UNITED STATES MAGISTRATE JUDGE  
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